

Court of Appeals, State of Michigan

ORDER

Laura J Powers v Pioneer Resources Inc

Docket No. 281421

LC No. 2005-000073

Joel P. Hoekstra
Presiding Judge

William B. Murphy

Richard A. Bandstra
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, that Court REMANDS this matter to the Worker's Compensation Appellate Commission for the purpose of determining the merits of defendant employer's claim that plaintiff's injury was alleviated by surgery and, therefore, did not give rise to a continuing right to benefits. The issue was timely raised in defendant employer's first brief, but not addressed by the WCAC. *Washam v Goodyear Tire & Rubber Co*, 78 Mich App 461, 464; 259 NW2d 890 (1977). Further, the WCAC shall modify its order to terminate defendant employer's obligation to pay the costs of orthopedic and neurosurgical treatment as of the date the treatment was no longer reasonable and necessary. MCL 418.315(1). The WCAC misapplied the statute because this matter does not involve an employer's challenge to a worker's choice of doctor. See *Welch & Royal*, Worker's Compensation in Michigan, Law and Practice (5th ed), §§ 14.3, 14.8. In all other regards, the Court DENIES the application for leave to appeal for lack of merit in the grounds presented. This order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL - 3 2008

Date

Sandra Schultz Mengel
Chief Clerk